



**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**[RTID 0648-XC274]**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Exempted Fishing Permit**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of receipt of an application for exempted fishing permit; request for comments.

**SUMMARY:** NMFS announces the receipt of an application for an exempted fishing permit (EFP) from Texas Sea Grant. If granted, the EFP would authorize the testing of new bycatch reduction device (BRD) designs in the commercial shrimp fishery in Federal waters of the Gulf of Mexico (Gulf). The Better BRDs for the Gulf Shrimp Fleet Project is a collaborative effort amongst Louisiana Sea Grant, Texas Sea Grant, NOAA Restoration Center, and NMFS to restore finfish populations impacted by the Deepwater Horizon oil spill (MC252) through the development and certification of new BRDs for the commercial shrimp industry throughout the Gulf.

**DATES:** Written comments must be received on or before [INSERT DATE 15 CALENDAR DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** You may submit comments on the application,

identified by "NOAA-NMFS-2022-0089" by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter "NOAA-NMFS-2022-0089" in the Search box. Click the "Comment" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Frank Helies, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](https://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of the application and may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/southeast/commercial-fishing/better-bycatch-reduction-device-gulf-shrimp-fleet->

*project/.*

**FOR FURTHER INFORMATION CONTACT:** Frank Helies, 727-824-5305; email: *frank.helies@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C 1801 *et seq.*), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

The EFP application submitted to NMFS involves the use of experimental fishing gear (BRDs) in Federal waters. Federal regulations require shrimp vessels to use NMFS approved BRDs while trawling for Gulf shrimp in Federal waters in the Gulf (50 CFR 622.53(a)). The EFP would exempt these research activities from the regulations requiring the use of BRDs in Federal waters of the Gulf at 50 CFR 622.53(a), and would allow the applicant to replace an existing approved BRD with one of six experimental BRDs determined by the applicant. The specific EFP request is further described and summarized below.

The Better BRDs for the Gulf Shrimp Fleet Project is a collaborative effort amongst Louisiana Sea Grant, Texas Sea Grant, NOAA Restoration Center, and NMFS to restore finfish populations injured by the Deepwater Horizon oil spill (MC252) through development and certification of new BRDs for the commercial shrimp industry throughout the Gulf. The project involves the testing of new BRD designs in the

commercial shrimp fishery in Federal waters of the Gulf. The new BRD designs could demonstrate a greater reduction in bycatch over the federally certified Fisheye BRD, which may also lead to an overall increase in shrimp catch.

This project would identify and develop new bycatch-reducing technology to minimize commercial shrimp trawl finfish discard mortality. Additionally, the project seeks to advance cost-effective solutions for the Gulf shrimp fleet that would maximize the adoption of improved BRDs.

The project is separated into several phases. The first phase was conducted over the past year and included proof-of-concept testing of new BRD designs by NMFS Gear Research Branch partners. This proof-of-concept testing included both dive and vessel testing aboard the research vessel Caretta. The dive testing was conducted off Panama City, Florida, and the vessel testing was conducted off Pascagoula, Mississippi. New BRD designs that showed the potential to be effective during proof-of-concept testing will be accepted for further evaluation during the project's next phase.

The next phase, covered by this EFP, would further evaluate the vetted BRDs through cost-effective solutions as part of commercial stakeholder testing. The final phase would be pre-certification and certification testing of the selected BRDs, consistent with the requirements in 50 CFR 622.53(a)(2) and the Bycatch Reduction Device Testing

Manual

(<https://www.fisheries.noaa.gov/resource/document/bycatch-reduction-device-testing-manual-2016/>).

The purpose of the commercial stakeholder testing that would be authorized under this EFP is to allow for stakeholder input on the strengths and weaknesses of new BRD designs across a variety of species and environmental conditions within the Gulf. This testing would also aid in the acceptance of new BRDs by the commercial shrimping industry when the most promising designs are later submitted for NMFS certification.

Up to 30 federally-permitted commercial Gulf shrimp vessels would be selected by the applicant to test gear that passed the proof-of-concept testing. The location of proof-of-concept testing trial vessels would be distributed across the Federal Gulf shrimp fishery and fishing grounds throughout the Gulf in water depths of 10-50 fathoms (18-91 m). During testing, vessels included in the EFP would be surveyed for qualitative information about the new BRDs, and any other use recommendations that are needed. Additional BRD information including time and difficulty to install, longevity, ease of use (e.g., tangling during deployment/retrieval and shark damage), bycatch and shrimp retention characteristics, and overall cost would be collected by the applicant to assist with promotion of new BRD designs for industry wide usage.

Vessels in the project would be using experimental BRD designs on trips of up to 30 days at sea. Trip duration and the total number of tows with experimental BRD gear may vary based on underway conditions and vessel business factors at the discretion of the vessel operator. During a 30-day trip, approximately 90 tows with BRD-equipped shrimp trawls are expected to occur. Tow times would be variable but would be consistent during each trip. Typical tow time average 3 hours but may vary from 1 to 5 hours. If all 30 vessels participate, and complete each test tow, there is the potential for a maximum of 1,800 tows for this phase of the project.

The EFP would be valid through December 31, 2024, commencing on the date the EFP is issued. All BRD testing on federally permitted shrimp vessels would occur during the course of normal Gulf shrimp fishing operations and all of these operations would comply with all other current Federal shrimp regulations such as closed areas and size limits.

### **Experimental BRD Configurations**

Under the EFP, six initial experimental BRD configurations could be tested by the applicant and project vessels. Each type of experimental BRD to be tested during the EFP is listed and summarized below.

#### *Toms Fisheye*

The Toms Fisheye BRD is a metal fisheye design with

solid sides for buoyancy that produces an escape area in the net to allow fish to swim out. The device is installed further forward (approximately 11 ft (3 m)) than the standard Fisheye BRD and builds on an established design created in Australia.

#### *Large Mesh Sections*

In the Large Mesh Sections BRD, areas of the otter trawl net that are composed of 2 inch (5.1 cm) or larger mesh that is well above minimum cod end dimensions and installed anywhere from 4 to 8 ft (1.2 to 2.4 m) from the trawl tie off rings. The large mesh provides openings that make it easier for fish to escape the trawl net.

#### *Nested Cylinder*

The Nested Cylinder BRD includes an extended funnel with radial openings and metal collar supporting radial mesh. This type of BRD is installed directly behind the turtle excluder device (TED) on the shrimp trawl. The funnel retains shrimp while allowing fish the opportunity to swim back to the openings and escape.

#### *Virgil Potter*

The Virgil Potter BRD is also known as the "Radial Escape Panel". It consists of a soft funnel design installed directly behind the TED and shrimp are retained by the funnel while allowing fish the opportunity to swim back to the openings and escape.

#### *Flapless TED*

The project would test two different flapless TED designs known as the Chauvin TED and the Drury TED. These are both top-shooting TEDs with PVC pieces placed ahead of TED extension at the leading edge of the escape opening cut. These TEDs are designed to work as both a TED and a BRD. However, neither TED configuration has been tested as a BRD.

The Chauvin TED is a top shooting TED that contains a "Chauvin shrimp deflector", which is an allowable TED modification (50 CFR Part 223.207(d)(8)). The Drury modification is not an allowable TED modification. Therefore, if the Drury TED modification is tested under this EFP, the applicant would need to obtain an additional TED testing permit from NMFS prior to commencement of testing.

#### *Composite Panel Variations*

The Composite Panel BRD is a NMFS-certified design that includes two soft panels with two sets of windows that allow fish to escape the net in addition a secondary component of either a spooker cone or a large mesh section installed further down the net. There is a potential for differences in BRD characteristics when used with a top versus bottom shooting TED. There is also potential for differences when installed with the escape openings in a top orientation of the composite panel as opposed to the current certified design that orients the escape openings



to the bottom.

NMFS finds the application warrants further consideration based on a preliminary review. Possible conditions the agency may impose on the permit, if granted, include but are not limited to, a prohibition on conducting fishing gear testing within marine protected areas, marine sanctuaries, special management zones, or areas where they might interfere with managed fisheries without additional authorization. Additionally, NMFS may require special protections for Endangered Species Act-listed species and designated critical habitat, and may require particular gear markings. A final decision on issuance of the EFP will depend on NMFS' review of public comments received on the application, consultations with the appropriate fishery management agencies of the affected states, the Gulf of Mexico Fishery Management Council, and the U.S. Coast Guard, and a determination that the activities to be taken under the EFP are consistent with all applicable laws.

**Authority:** 16 U.S.C 1801 *et seq.*

**Dated:** August 23, 2022.

**Jennifer M. Wallace,**

*Acting Director, Office of Sustainable Fisheries,*

*National Marine Fisheries Service.*